



# PROPOSED RULE MAKING

**CR-102 (June 2004)**

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Washington State Patrol

☒ Preproposal Statement of Inquiry was filed as WSR 04-19-002 ; or☐ Expedited Rule Making--Proposed notice was filed as WSR \_\_\_\_\_ ; or☐ Proposal is exempt under RCW 34.05.310(4).☒ Original Notice☐ Supplemental Notice to WSR \_\_\_\_\_☐ Continuance of WSR \_\_\_\_\_

Title of rule and other identifying information: (Describe Subject) WAC 446-65-010 - Transportation Requirements

Hearing location(s): General Administration Building  
Washington State Patrol Commercial Vehicle Division Conference Room  
210 11<sup>th</sup> Avenue SW  
Olympia WA 98504

Date: December 22, 2004 Time: 11:00 a.m.

Submit written comments to:

Name: Ms. Christine Fox

Address: PO Box 42614

Olympia WA 98504-2614

e-mail Christine.Fox@wsp.wa.govfax (360)586-8233 by (date) December 21, 2004

Assistance for persons with disabilities: Contact

Ms. Christine Fox, by December 21, 2004

TTY ( ) \_\_\_\_\_ or (360) 753-3697

Date of intended adoption: January 18, 2005

(Note: This is NOT the effective date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules: To more clearly identify the adoption of specific Codes of Federal Regulations used for enforcement of Commercial Motor Vehicles, and all amendments thereto.

Reasons supporting proposal: This revision will provide for the future adoption of any amendments to Title 49 Code of Federal Regulations by the Washington State Patrol.

Statutory authority for adoption: RCW 46.32.020

Statute being implemented:

Is rule necessary because of a:

Federal Law?

☐ Yes ☒ No

Federal Court Decision?

☐ Yes ☒ No

State Court Decision?

☐ Yes ☒ No

If yes, CITATION:

DATE

11/3/04

NAME (type or print)

Lowell M. Porter

SIGNATURE

TITLE

Chief

**CODE REVISER USE ONLY**CODE REVISER'S OFFICE  
STATE OF WASHINGTON  
FILED

NOV 5 2004

TIME

4:17

AM

WSR

04-23-018

(COMPLETE REVERSE SIDE)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

Name of proponent: (person or organization) Department of Licensing, Department of Transportation, and the Utilities and Transportation Commission.

☐ Private  
☒ Public  
☐ Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Ms. Christine Fox	PO Box 42614, Olympia WA 98504-2614	(360) 360-753-3697
Implementation..... Ms. Christine Fox	PO Box 42614, Olympia WA 98504-2614	(360) 360-753-3697
Enforcement..... Ms. Christine Fox	PO Box 42614, Olympia WA 98504-2614	(360) 360-753-3697

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

☐ Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone ( ) \_\_\_\_\_

fax ( ) \_\_\_\_\_

e-mail \_\_\_\_\_

☒ No. Explain why no statement was prepared.  
The revision of this rule will not impact small businesses.

Is a cost-benefit analysis required under RCW 34.05.328?

☐ Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

phone ( ) \_\_\_\_\_

fax ( ) \_\_\_\_\_

e-mail \_\_\_\_\_

☒ No: Please explain: These revisions just clarify the language of the rule without changing its effect.

AMENDATORY SECTION (Amending WSR 98-19-043, filed 9/11/98, effective 10/12/98)

WAC 446-65-010 Transportation requirements. (1) The Washington state patrol hereby adopts the following parts, and any amendments thereto, of Title 49 Code of Federal Regulations, for motor carriers used in intrastate or interstate commerce, in their entirety: Parts 390 General, 391 Qualification of drivers, 392 Driving of motor vehicles, 393 Parts and accessories necessary for safe operation, 395 Hours of service of drivers, 396 Inspection, repair, and maintenance, 397 Transportation of hazardous materials; driving and parking rules, provided, however, motor carriers operating vehicles with a gross vehicle weight rating between 10,001 lbs. and 26,000 lbs. operating solely intrastate, and not used to transport hazardous materials in a quantity requiring placarding, are exempt from Parts 390 General, 391 Qualifications of drivers, 392 Driving of motor vehicles, 395 Hours of service, and 396 Inspection, repair, and maintenance.

(2) As provided in Part 395, exemption for agricultural transporters, the harvest dates are defined as starting February 1 and ending November 30 of each year.

(3) Agricultural operations exceptions:

(a) Agricultural operations transporting agricultural products other than Class 2 material (Compressed Gases), over roads, other than the National System of Interstate Defense Highways, between fields of the same farm, is excepted from part 397 when:

(i) The agricultural product is transported by a farmer who is an intrastate private motor carrier.

(ii) The movement of the agricultural product conforms to all other laws in effect on or before July 1, 1998, and 49 CFR 173.24, 173.24a, and 173.24b.

(b) The transportation of an agricultural product to or from a farm within one hundred fifty miles of the farm, is excepted from the requirements of 49 CFR part 172 subpart G (emergency response information) and H (training requirements) when:

(i) The agricultural product is transported by a farmer who is an intrastate private motor carrier;

(ii) The total amount of agricultural product being transported on a single vehicle does not exceed:

(A) Sixteen thousand ninety-four pounds of ammonium nitrate fertilizer properly classed as Division 5.1, PGIII, in bulk packaging; or

(B) Five hundred two gallons for liquids or gases, or five thousand seventy pounds for solids, of any other agricultural product;

(iii) The packaging conforms to the requirements of state law and is specifically authorized for transportation of the

agricultural product by state law and such state law has been in effect on or before July 1, 1998; and

(iv) Each person having any responsibility for transporting the agricultural product or preparing the agricultural product for shipment has been instructed in the applicable requirements of 49 CFR adopted in this section.

(C) Formulated liquid agricultural products in specification packaging of fifty-eight gallon capacity or less, with closures manifolded to a closed mixing system and equipped with a positive dry disconnect device, may be transported by a private motor carrier between a final distribution point and an ultimate point of application or for loading aboard an airplane for aerial application.

(4) Copies of Title 49 CFR, parts 390 through 397, now in force are on file at the code reviser's office, Olympia and at the Washington state patrol headquarters, commercial vehicle enforcement section, Olympia. Additional copies may be available for review at Washington state patrol district headquarters offices, public libraries, Washington utilities and transportation commission offices, and at the United States Department of Transportation, Bureau of Motor Carrier Safety Office, Olympia. Copies of the CFR may be purchased through the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402.